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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BOARD OF TRUSTEES OF THE
INTERNATIONAL ACADEMY OF
ATLANTIC CITY CHARTER SCHOOL,

Plaintiff,

v.

SPRINGFIELD EDUCATION
MANAGEMENT, LLC; SABIS
EDUCATIONAL SYSTEMS, INC.; CARL
BISTANY; LYNN SPAMPINATO; JOSE
AFONSO; and ANNA DOSEN, jointly,
severally, and in the alternative,

Defendants.

Civil Action No.: 1:18-cv-11474

CIVIL ACTION

NOTICE OF REMOVAL
(DIVERSITY)

PLEASE TAKE NOTICE that Defendants, SABIS Educational Systems, Inc./Springfield Education Management LLC (collectively “SABIS”), Carl Bistany, Lynn Spampinato (improperly named as Spamimato), Jose Afonso (improperly named as Jose Alfonso), and Anna Dosen, by and through their undersigned legal counsel, hereby file this Notice of Removal of the above-captioned action to the United States District Court for the District of New Jersey, from the New Jersey Superior Court, Law Division, Atlantic County,

where the action is now pending, as provided by Title 28, United States Code, Chapter 89, and states:

I. STATE COURT ACTION

1. Plaintiff commenced an action on June 22, 2018 in the Superior Court of New Jersey, Law Division, Atlantic County, by the filing of a Complaint docketed ATL-L-1531-18 (the “State Court Action”), which is now pending in that court.

2. On June 25, 2018, Plaintiff’s counsel forwarded a copy of the Complaint in the State Court Action to Defendants’ counsel.

3. The Complaint in the State Court Action attempts to allege claims for breach of contract, negligence, violation of the New Jersey Consumer Fraud Act, common law fraud, breach of the covenant of good faith and fair dealing, tortious interference with prospective economic advantage, unjust enrichment, breach of fiduciary duty, and reimbursement of costs. Attached hereto as **Exhibit 1** is a copy of the Complaint in the State Court Action.

4. On July 3, 2018, the undersigned received a copy of an Order to Show Cause, signed by the Hon. Nelson C. Johnson, J.S.C. and setting return dates on Plaintiff’s requested Order to Show Cause in the State Court Action. A copy of the signed Order to Show Cause in the State Court Action is attached hereto as **Exhibit 2**.

II. TIMELINESS OF REMOVAL

5. This Notice of Removal is timely filed within thirty (30) days of June 25, 2018, as required by 28 U.S.C. § 1446(b)(3).

6. This Notice of Removal is also filed within one (1) year of the commencement of the State Court Action and is therefore timely under 28 U.S.C. § 1446(c)(1).

III.DIVERSITY JURISDICTION

7. The United States District Court for the District of New Jersey has diversity jurisdiction in this case based on 28 U.S.C. § 1332. Diversity jurisdiction exists when the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the dispute is between citizens of different states. Id. As explained below, both of these requirements have been met.

8. At the time of the filing of the Complaint in the State Court Action, and at this time of removal, Plaintiff is and continues to be a citizen of New Jersey for purposes of 28 U.S.C. § 1332(c)(1).

9. At the time of the filing of the Complaint in the State Court Action, and at this time of removal, Defendant SABIS Educational Systems, Inc. is and continues to be a citizen of Minnesota for purposes of 28 U.S.C. § 1332(c)(1). More specifically, Defendant SABIS Educational Systems, Inc. is a corporation incorporated in the State of Minnesota and maintains a principal place of business in that state at 6385 Beach Road, Eden Prairie, Minnesota 55344.

10. At the time of the filing of the Complaint in the State Court Action, and at this time of removal, Defendant Springfield Education Management, LLC is and continues to be a citizen of Delaware and Minnesota for purposes of 28 U.S.C. § 1332(c)(1). More specifically, Defendant Springfield Education Management, LLC is a single member limited liability company registered in the State of Delaware and

maintains a principal place of business in the State of Minnesota at 6385 Beach Road, Eden Prairie, Minnesota 55344.

11. Upon information and belief, Defendant Carl Bistany, was improperly named by Plaintiff due to his employment with SABIS. At the time of the filing of the Complaint in the State Court Action and at this time of removal, Defendant Carl Bistany is and continues to be a citizen of a foreign state for purposes of 28 U.S.C. § 1332(a)(1). More specifically, Defendant Carl Bistany is a resident of Lebanon, a foreign state located outside of the United States. Defendant Carl Bistany is not a citizen of any state located within the United States.

12. Upon information and belief, Defendant Lynn Spampinato (improperly named as Spamimato) was improperly named by Plaintiff due to her employment with SABIS. At the time of the filing of the Complaint in the State Court Action and at this time of removal, Defendant Lynn Spampinato is and continues to be a citizen of the State of Florida for purposes of 28 U.S.C. § 1332(a)(1).

13. Upon information and belief, Defendant Jose Afonso (improperly named as Alfonso) was improperly named by Plaintiff due to his employment with SABIS. At the time of the filing of the Complaint in the State Court Action and at this time of removal, Defendant Jose Afonso is and continues to be a citizen of the State of New Hampshire for purposes of 28 U.S.C. § 1332(a)(1).

14. Upon information and belief, Defendant Anna Dosen was improperly named by Plaintiff due to her employment with SABIS. At the time of the filing of the Complaint in the State Court Action and at this time of removal, Defendant Anna Dosen

is and continues to be a citizen of the State of Minnesota for purposes of 28 U.S.C. § 1332(a)(1).

15. Defendants hereby plead that each person or entity named as a Defendant in this action is a citizen of a state other than New Jersey, being either a resident of such state, incorporated in such state, or maintaining a principal place of business in such state.

16. Defendant also hereby pleads that each of the individual named Defendants, Carl Bistany, Lynn Spampinato, Jose Afonso, and Anna Dosen, have been improperly named as Defendants and are not proper parties to the lawsuit. Indeed, none of the allegations of the Complaint contain any assertions of fact or references to acts or omissions by those named individual defendants. Notwithstanding their being improperly named as Defendants, each of the above individuals is a citizen of a state other than New Jersey.

17. The only true parties in interest to this lawsuit are Defendants SABIS Educational Systems, Inc. and Springfield Education Management LLC (collectively “SABIS”) which are considered a citizens of the State of Minnesota and/or State of Delaware, pursuant to 28 U.S.C. § 1332(c)(1).

18. As such, complete diversity of citizenship exists between the Plaintiff and the Defendants.

19. In addition, as further explained below, the matter in controversy in the State Court Action exceeds the sum or value of \$75,000. See 28 U.S.C. § 1332(a).

20. Plaintiff does not allege a specific amount of damages in its Complaint. Defendants maintain that Plaintiff is not entitled to any damages, do not concede that any of Plaintiff’s allegations are true or meritorious, in any sense, and in fact, maintain that it

is Defendants that are owed damages by Plaintiff in arbitration. Defendants provide the following averments only to demonstrate that the amount in controversy between the parties, based on the demand and relief sought by Plaintiff as a whole, exceeds the \$75,000 jurisdictional requirement. In addition to attempting to assert a host of unmeritorious causes of action, Plaintiff's Complaint seeks to restrain arbitration of breach of contract claims that are properly subject to an arbitration agreement. SABIS maintains that Plaintiff Board of Trustees of the International Academy of Atlantic City Charter School owes damages to it for breach of contract in excess of \$500,000. Plaintiff has attempted to assert claims for, among other alleged violations, breach of contract, punitive damages, and violation of the Consumer Fraud Act, under which Plaintiff claims entitlement to an award of treble damages. Upon information and belief, Plaintiff is seeking a figure of similar amount, or at least an award of damages in excess of \$75,000. See Angus v. Shiley, 989 F.2d 142, 146 (3rd Cir. 1993) (where plaintiff does not set a limit for damages, the Court should make a reasonable reading of the value of the claims that plaintiff has asserted and come to an independent valuation of the amount plaintiff has claimed).

21. Based on the above, a reasonable valuation of damages sought by Plaintiff places the amount in controversy between the parties well above the \$75,000 jurisdictional limit.

22. Accordingly, this Court possesses original jurisdiction over this action under 28 U.S.C. § 1331(a), which provides for original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

IV. CONSENT OF ALL DEFENDANTS

23. This notice is hereby being filed on behalf of all Defendants named in the State Court Action, who thus all consent to the removal of this action through their undersigned counsel.

V. VENUE

24. The United States District Court for the District of New Jersey is the proper District Court of the United States within whose geographic and jurisdictional boundaries the Plaintiff's State Court Action is currently pending.

25. The Camden Vicinage has jurisdiction over cases arising out of Atlantic County, and thus this Notice of Removal is filed in the Camden vicinage.

VI. NOTICE TO PLAINTIFF AND STATE COURT

26. Upon filing of this Notice of Removal, Defendants are giving written notice to the Superior Court of New Jersey, Hon. Nelson C. Johnson, J.S.C., and to the counsel for Plaintiff, Louis Niedelman, Esq., Cooper Levenson, P.A., 1125 Atlantic Avenue, 3rd Floor, Atlantic City, New Jersey 08401.

27. By filing this Notice, Defendants do not waive any objections or defenses that any of them have or may have as to service, jurisdiction, venue, or any other defenses available to them at law, in equity, or otherwise. Defendants do not make and do not intend any admission of fact or law by this Notice and hereby expressly reserve all defenses and motions.

28. If the Court should be inclined to remand this action, Defendants respectfully request that the Court issue an Order to Show Cause why the case should not be remanded, providing Defendants an opportunity to first present briefing and argument

concerning the elements of diversity jurisdiction prior to any possible review. Such procedure is appropriate, because a remand order is not subject to appellate review.

29. As required by 28 U.S.C. § 1446(a), this Notice of Removal is signed under Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants respectfully request that the foregoing action be removed from the Superior Court of New Jersey, Law Division, to the United States District Court for the District of New Jersey.

CAPEHART SCATCHARD, P.A.
Attorneys for Defendants, SABIS Educational
Systems, Inc./Springfield Education Management
LLC, Carl Bistany, Lynn Spampinato, Jose Afonso,
and Anna Dosen

BY: /s/ Joseph F. Betley
JOSEPH F. BETLEY

BY: /s/ Sanmathi Dev
SANMATHI DEV

Dated: July 9, 2018

CERTIFICATE OF SERVICE

I, ANNE M. CLEMENTI, of full age, hereby certify that:

I am employed by the law firm of Capehart Scatchard, P.A., attorneys for Defendants SABIS Educational Systems, Inc./Springfield Education Management LLC, Carl Bistany, Lynn Spampinato, Jose Afonso, and Anna Dosen in the above-captioned matter;

On July 9, 2018, on behalf of Joseph F. Betley, Esq. and Sanmathi Dev, Esq. I electronically filed the within Notice of Removal, with supporting papers, with the Court via the Court's CM/ECF system, and caused one (1) copy of the same to be served upon the following counsel for Plaintiff via e-mail and first class mail:

Louis Niedelman, Esq.
Cooper Levenson, P.A.
1125 Atlantic Avenue, 3rd Floor
Atlantic City, New Jersey 08401
lniedelman@cooperlevenson.com

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Anne M. Clementi
ANNE M. CLEMENTI